



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

Regulatory Division
CENAE-RDC
Application No. NAE-2017-01342

March 3, 2020

Mark Goodwin
Burns & McDonnell
27 Pearl Street, 2nd Floor
Portland, Maine 04101

Dear Mr. Goodwin:

This refers to your client's application, number NAE-2017-01342 for a Department of the Army permit to place temporary and permanent fill in numerous waterways and wetlands between the Maine-Québec border and Lewiston, Maine in order to construct a new HVDC transmission line.

On December 5, 2019 the Corps conducted a public hearing on the project. As you are aware, our Public Notice supporting the public hearing has expired.

We previously provided you with a copy of the hearing transcript and recently conveyed all written comments and testimony to Gerry Mirabile at CMP. I believe he has shared these with you already. This information was forwarded for your reference and to give you the opportunity for resolution or rebuttal. Please avail yourselves of the opportunity of contacting the writer directly in an attempt to reach a mutual understanding.

As a result of our review of the comments and testimony received and the administrative record, the following specific information is required, in addition to any rebutting comments, so that we can continue the evaluation of your application:

1. You are already aware that we require a copy of the state water quality certification from the Maine DEP. Please furnish us with a copy of the final signed document as soon as it becomes available.
2. On January 23, 2020, the EPA and the Department of the Army finalized the Navigable Waters Protection Rule to define "waters of the United States" (WOTUS). The final rule will become effective 60 days after publication in the *Federal Register*. We advise you and your legal team to monitor this process relative to the timeline of your project. While many of the waters being affected by your project are likely to remain jurisdictional, I would be remiss if I didn't at least advise you of the potential for change. Currently there is a signed Preliminary Jurisdictional Determination in the administrative record. There is no need to revisit this

determination at this time. If the Rule is finalized without challenge we can have further discussions as to its implications for your project.

3. Please summarize how the project opponents' various legislative initiatives potentially affect the project schedule. Similarly, how might legal challenges affect the schedule?

4. A core determination that the Corps must make is, will the authorization of discharges of fill into WOTUS be in the public interest or at least not contrary to the public interest. Prevailing public comments and hearing testimony received to date slants heavily toward project opponents. This is not uncommon though it seems particularly well organized for this project. Reportedly 26 or more towns along the corridor have voted in opposition to the project. While our public interest evaluation isn't a 'popularity contest', careful consideration must be given to our public interest review factors in view of the magnitude of public opposition. Toward that end we offer CMP the opportunity to update and enhance Section 7 and Table 9 of the draft Environmental Assessment. You may wish to greater emphasize the project benefits.

5. Testimony and a comment letter pointed to a "Project Labor Agreement" as a means by which CMP's projections for construction and other jobs creation could more assuredly benefit Maine citizens. Please discuss the feasibility of such an agreement and/or CMP's general policies for hiring Maine contractors.

6. CMP has committed to no pesticide or herbicide use in Section 1. Public concerns apparently still remain for such use in the other sections. Is CMP able to make the same commitment within the other segments in light of the public interest?

7. Starting sometime before our hearing and certainly at the hearing and since, there is increasing public scrutiny and concern about hydropower as a "clean" or "green" energy source. Methane and CO2 emissions from impoundments along with methyl mercury tainted discharges to downstream receiving waters are raised as key issues of concern in numerous letters and testimony. Mr. Kasprzak continues to express very well documented concerns for the effects of warm water discharge from Hydro-Québec impoundments into the Gulf of Maine. Such allegations detract from one of the reported primary public benefits of the project. With the assistance of Hydro Quebec and perhaps even the State of Massachusetts, please summarize best available technical information to rebut these allegations.

8. Another reported project benefit is increased reliability and grid stability. Please explain how this is occurring when the primary project component is a single devoted HVDC line.

9. Dot Kelly from the Sierra Club continues to raise very detailed concerns and questions about fire risk. A table is provided, allegedly derived from the Forest Service, noting the number of power line related fires in Maine. Does CMP have alternative records or additional perspective on the table? What exactly is the fire risk of an HVDC line on a monopole at the height you propose based on industry safety standards? How does this risk compare to the risk posed by

existing transmission lines along the project corridor? By all means reference other unmitigated threats along the corridor. What is the suite of available best management practices for minimizing fire risk from a project such as yours? Discuss whether they're available or practicable in this case after clarifying the actual risk. What actions has CMP considered to bolster local/regional fire monitoring, fighting and emergency response capacity? A fire protection/response plan, similar to plans you've developed for vegetation management, invasive species control, etc, would demonstrate to the public and review agencies that CMP takes this issue seriously. We strongly recommend that CMP engage the Maine Federation of Firefighters on the issue of fire risk and remediation, and if you do not, why not? Is there additional industry technical information or peer reviewed literature available that would further address or rebut Ms. Kelly's concerns?

10. In a series of emails on January 6, 2010, the comments of the Town of New Gloucester and Mr. Wilcox relative to the Surowiec Substation were conveyed to the CMP team. While stormwater and flooding issues are more the responsibility of the DEP and the town to address, they are none-the-less also public interest factors that the Corps must consider. Please furnish the town and Mr. Wilcox with rebutting information to demonstrate that the project related work in that area will improve existing conditions or at least not further adversely affect stormwater management. Please copy the Corps on this correspondence. CMP should be reminded that they will eventually have to obtain a Flood Hazard Prevention Permit from the town for work in this area.

11. Since the regional benefits from reduced greenhouse gas (GHG) emissions are reportedly the cornerstone of the project's benefits and critical to the public interest review, the Corps and the Department of Energy (DOE) Office of Electricity have collaborated on how best to address the conflicting positions in this matter. We have reviewed the studies conducted on the NECEC Project, written testimonies, transcripts, and other material CMP filed as part of the state proceedings before the Maine Public Utilities Commission (Maine PUC). CMP consolidated this information and provided it to the Corps and DOE in a Supplemental Information Response dated November 26, 2019. Opposing findings, testimony, and material have also been reviewed. DOE has identified gaps in the assumptions and analysis that limited their ability to fully vet the results of the studies and understand the drivers underpinning the stated reductions in GHG emissions. It is therefore very important that CMP work directly with the DOE team and the Corps to furnish best available information to fill the identified gaps.

Attached is a summary of the information required to assist us in our review of the GHG emission question. In the interest of streamlining the two federal reviews, the attachment also includes several DOE specific information requirements. Please direct your full response to both agencies.

Please respond within 30 days from the date of this letter. If you require additional time to gather this information, please notify us within the 30-day time frame.

No work may be started until a permit signed by the District Engineer or his authorized representative has been received.

If you have any questions on this matter, please contact me at 207-623-8367 at our Augusta, Maine Project Office. You may also contact Ms. Melissa Pauley or Dr. Julie Smith at DOE.

Sincerely,

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CLEMENT.JAY.LANGDON.100635
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Date: 2020.03.03 17:25:50 -05'00'

Jay L. Clement
Senior Project Manager
Maine Project Office

Attachments

Copies Furnished:

Melissa Pauley & Julie Smith – DOE

Beth Alafat & Mike Marsh – EPA

Gerry Mirabile - CMP

Information Required for Corps/DOE Permit Evaluations
Corps Permit Application, No. NAE-2017-01342
DOE Presidential Permit Application, Docket No. PP-438

1. Please provide DOE with an update (one clean version and one track changes version) of Sections 2 and 3 of the DOE Presidential permit application dated July 26, 2017 that reflect the current project description and associated environmental conditions and impacts. These revisions should include revisions to the existing text, as well as additional text, as needed, to capture changes that have been made to the project since the application was submitted in 2017. DOE understands that this information is available on various state dockets and in permit application submissions to the Corps. However, for purposes of DOE's administrative record, DOE requests that the Presidential permit be updated to reflect present-day conditions.
2. Please explain if there is a capability for tracking the provenance of the power being supplied through the NECEC. Such a method may be available through data managed by ISO-NE or evidenced through transmission service agreements, power purchase agreements/contracts, or other commitments. We recognize that this information may be business confidential. However, having a clearer understanding will help the Corps and DOE address concerns that a variety of stakeholders have expressed in this regard, specifically the concern that Hydro Québec will simply divert energy from other markets, such as New York, Ontario and New Brunswick, forcing them to rely on other sources of energy, including coal or oil, to make up the difference, thereby compromising the net benefit of the project.
3. GHG emissions evaluation. CMP has stated that Hydro-Québec (HQ) has sufficient energy and capacity to meet the supply contracted to NECEC over a 20-year period, but none of the studies included an analysis of Hydro-Québec's supply and demand dynamics that validate this conclusion. As described by the applicant, "the energy product offered by HQ Production pursuant to the terms of the PPAs with the Massachusetts EDCs is the firm delivery of 1,090 MW of hydroelectric energy in all hours of the year, which is very similar to a capacity product and arguably requires capacity in order to perform under the agreement."¹ CMP further states that market conditions "indicate that HQ Production is not building new generation for the NECEC, but in the absence of the NECEC, HQ Production would sell its energy to other markets."²

¹ Central Maine Power, Post Hearing Brief, February 1, 2019, page 46.

² Id, page 56.

If new capacity is not built for NECEC, an evaluation of the effect of NECEC on GHG emissions will require a comparison of a scenario with NECEC in-service to one that examines the outlook for Hydro-Québec's supply if NECEC is not built.

CMP also states that "NECEC will provide 1,090 MW of hydroelectric power, backed by HQ Production's extensive reservoir system, in all hours of the year for 20 years starting in late 2022."³ It is not clear if the studies analyzed the supply and demand dynamics for Hydro-Québec for these two scenarios, i.e. with or without NECEC project, over the 20-year operating period. DOE and the Corps are therefore requesting that the applicant provide the following list of data items that would help fill the gaps.

Hydro-Québec Operations – Reference Case without NECEC and Project Case with NECEC

a. For the Reference Case (without NECEC) and the Project Case (with NECEC), please provide the following:

- 1) Assumptions and analysis used to calculate Hydro-Québec's energy demand, peak demand, and reserve margin requirements over the 20-year contract period.
- 2) Assumptions and analysis used to calculate Hydro-Québec's capacity and energy imports and exports over the 20-year contract period.
- 3) Assumptions and analysis used to calculate Hydro-Québec's generation capacity and dispatch used to meet Hydro-Québec's energy demand, peak demand, reserve margin requirements, and exports over the 20-year contract period.
- 4) Assumptions regarding Hydro-Québec's new generation builds and upgrades over the contract period.
- 5) Assumptions regarding Hydro-Québec's hydro storage additions and expansion over the contract period.
- 6) Sensitivity cases analyzed to assess Hydro-Québec's ability to meet NECEC supply requirements over the 20-year contract period under different hydrological conditions.
- 7) Assumptions about Hydro-Québec's precipitation levels over the 20-year contract period.

b. The applicant stated that 'LEI concluded that it "believes that HQP would have sufficient capacity to fill the 1,090 MW capacity on NECEC without having to forego capacity sales to other markets."⁴ Please explain whether this conclusion is based on the results of the modeling of the Reference Case and Project Case. If so, please provide analysis of Hydro-Québec dispatch, imports, exports, and other relevant information for the Reference and Project cases showing that Hydro-Québec would have sufficient capacity to fill the 1,090 MW capacity on NECEC without having to forego capacity sales to other markets over the

³ Id, pages 92-93.

⁴ Id, page 47.

20-year contract period. Include details of Hydro-Québec's capacity sales in the absence of NECEC.

c. The applicant stated that "Québec has experienced increasing precipitation in recent years" and "forecasts of further precipitation increases in the coming years due to the impacts of climate change on Canada."⁵ Please provide assumptions regarding Hydro-Québec's precipitation levels over the contract period as used in the study.

Geographic Scope of Greenhouse Gas Emissions Impact Assessment

a. Describe Maine Public Utility Commission (MPUC)'s definition of the geographic boundary for GHG emissions accounting.

b. If the MPUC did not provide a definition, describe the geographic boundary that Hydro-Québec defined for GHG emissions accounting. Explain why Hydro-Québec selected this boundary.

c. Provide calculations of GHG emissions impact in regions outside New England, and the net emissions within the boundary for the following cases:

- 1) The Reference Case without NECEC
- 2) The Project Case with NECEC

⁵ Id, page 111-112